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Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

07 CR 440 (PGG)

5 VLADIMIR ZDOROVENIN,

6 Defendant.

7 -----x

8 New York, N.Y.
9 January 4, 2013
2:45 p.m.

10 Before:

11 HON. PAUL G. GARDEPHE,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 JAMES PASTORE

Assistant United States Attorney

18 SABRINA SHROFF

19 Attorney for Defendant Zdorovenin

20
21 ALSO PRESENT: YANA AGOUREEV, Russian Language Interpreter
22 ANDREW TAPUTZ, Russian Language Interpreter

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1 (Case called)

2 MR. PASTORE: Jim Pastore, for the United States.

3 Joining me at counsel table is a special agent Andy Dodd of the
4 Federal Bureau of Investigation.

5 MS. SHROFF: Good afternoon, your Honor.

6 For the defendant, Sabrina Shroff, from the Federal
7 Defenders Office. My client is seated to my right.

8 THE COURT: All right. This matter is on my calendar
9 for purposes of sentencing. I've read the presentence report
10 dated May 9, 2012. I've read Ms. Shroff's amended sentencing
11 submission dated December 26 and her reply submission dated
12 January 1st along with the letters from the defendant's family
13 and friends. I've also read the government's amended
14 sentencing submission dated December 30th.

15 Ms. Shroff, have you read the presentence report and
16 its recommendation and discussed it with your client?

17 MS. SHROFF: I have, your Honor.

18 THE COURT: Mr. Zdorovenin, has the presentence report
19 and its recommendation been read to you in Russian and have you
20 discussed it with Ms. Shroff?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: All right. Ms. Shroff, do you have any
23 objections to the factual portions of the presentence report?

24 MS. SHROFF: No, your Honor. I mean other than the
25 way I've clarified them in my sentencing submission, I don't

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1 have any which I seek to amend.

2 THE COURT: Well, you had raised objections to three
3 paragraphs in the report. I think from the perspective of
4 whether your client had actually committed the conduct it's
5 discussed. And those paragraphs deal with the theft of credit
6 card numbers and the surreptitious insulation of a computer
7 virus program on people's computers, transmission of data from
8 those computers to your client's son, as well as the operation
9 of three websites and then the illegally accessing customer's
10 brokerage accounts to use them to buy and sell securities. And
11 I think your point was that that was all conduct that the son
12 did.

13 MS. SHROFF: That's right, your Honor.

14 THE COURT: All right. Does the government dispute
15 that?

16 MR. PASTORE: Well, your Honor, with respect, I
17 believe it's Paragraphs 18 through 20, that we're discussed in
18 the --

19 THE COURT: Yes.

20 MR. PASTORE: I'll note that at least in the
21 government's reading of those it does distinguish between
22 actions taken by Koreal on the one hand and Vladimir on other.
23 For example, in Paragraph 18 it is says Koreal Zdorovenin used
24 a computer virus program that was surreptitiously installed on
25 to the victim's computer.

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1 THE COURT: Sometimes it distinguishes and sometimes
2 it doesn't.

3 MR. PASTORE: Correct.

4 THE COURT: So, for example, the first sentence says
5 they both or could be read to say that they both purchased
6 stolen credit card numbers. Is that true, that they both did
7 it?

8 MR. PASTORE: The government's intention is, yes, your
9 Honor, that both of them did it in participating in this
10 conspiracy. In terms of how the presentence report is drafted
11 right now, I don't think that there's any factual dispute
12 between the parties because my understanding is that these
13 actions were undertaken as part of the joint conspiracy.

14 THE COURT: All right. So are you content then with
15 these paragraphs as they currently are written, Ms. Shroff?

16 MS. SHROFF: Well, I am not -- I don't seek to modify
17 the recitation in the PSR largely because it's not relevant to
18 my client's designation or anything that has come to follow. I
19 think what Mr. Pastore is saying when he says it's jointly
20 undertaken activity is that my client was aware. I don't think
21 the government is staying that my client had that particular
22 skill or savvy. And to the extent they're staying that, I
23 would disagree with that but I think that's -- I think I've
24 repeated myself that you are probably tired of hearing that
25 refrain already but --

1 THE COURT: Well, understand that your client from a
2 conspiracy perspective would be liable for foreseeable acts
3 that his son committed in furtherance of the conspiracy. I
4 understand that. And I suppose one could read these paragraphs
5 that way but I wanted to give you an opportunity, if you
6 wished, to request modification to the extent the paragraphs
7 could be read to suggest that your client actually did these
8 things personally.

9 MS. SHROFF: Your Honor, I think that the PSR sets
10 forth the defense's objections to those. But I mean they're in
11 the document, so I don't seek a word-for-word modification.

12 THE COURT: All right.

13 MS. SHROFF: But I do know that the presentence report
14 notes our objections that Vladimir did not have those skills
15 nor the technology.

16 THE COURT: Right. I think it's already been very
17 clear in this case, certainly, it's been very clear to me that
18 the technical knowledge here was possessed by the son and not
19 by the father and the government has never argued to the
20 contrary. I think that's very, very clear.

21 Mr. Pastore, does the government have any objections
22 to the factual portions of the presentence report?

23 MR. PASTORE: No, your Honor.

24 THE COURT: Then I adopt the findings of fact as
25 they're set forth in the presentence report. Although, I am

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1 not required to impose sentence in accordance with the
2 sentencing guidelines, I am required to consider the
3 recommended range under the guidelines.

4 Here the probation department determined that Mr.
5 Zdorovenin's base offense level is seven under Section 2B1.1A1
6 which addresses fraud. The probation department imposed a 14
7 level increase because the loss amount was between four hundred
8 thousand and \$1 million.

9 The probation department further imposed a two level
10 increase because the involved ten or more victims.

11 A further two level increase was imposed because a
12 substantial part of the offense was committed outside of the
13 United States.

14 An additional two level increase was imposed because
15 the defendant was convicted under Title 18 U.S.C. Section 1030
16 which deals with computer fraud.

17 Because Mr. Zdorovenin demonstrated acceptance of
18 responsibility, the probation department granted a three level
19 reduction yielding an adjusted offense level of 24.

20 The probation department determined that the defendant
21 has no criminal history and therefore he falls under criminal
22 history category one.

23 Offense level 24, criminal history category one yields
24 a guidelines range of 51 to 63 months imprisonment.

25 Ms. Shroff, does the defendant wish to raise any

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1 objections to the accuracy of the guidelines calculations as
2 they're set forth in the presentence report?

3 MS. SHROFF: No, your Honor. They comport with the
4 plea agreement and we have no objection.

5 THE COURT: All right. Mr. Pastore do you have any
6 objections to the guidelines calculations set forth in the
7 presentence report?

8 MR. PASTORE: No, your Honor.

9 THE COURT: Based on my independent evaluation of the
10 sentencing guidelines, I accept the calculations set forth in
11 the presentence report. Accordingly, I find that the offense
12 level is 24. The criminal history category is one and the
13 recommended range under the guidelines is 51 to 63 months
14 imprisonment.

15 I'll hear from you, Ms. Shroff, as to an appropriate
16 sentence.

17 MS. SHROFF: Your Honor, I think that on behalf of
18 Mr. Zdorovenin we have briefed pretty much why we think a
19 sentence of 24 months would be a sufficient sentence and not
20 greater than necessary to achieve the goals of sentencing.

21 Putting aside the personal characteristics of my
22 client, I would like -- I don't want to repeat everything I've
23 said in my letter but I do wish to reiterate that the loss
24 guidelines -- and I could have provided for the Court as we've
25 done in other loss cases from our office -- a computation of

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1 how the loss guidelines have changed since Bernie Evers got
2 elected and when Congress decided that the probationary
3 sentences being handed down for white collar defendants were
4 not achieving the goals they had set out to achieve and then
5 thought the best way to proceed with white collar defendants
6 was to impose short limited incarceratory sentences because
7 they thought that that would best achieve the goals of
8 sentencing.

9 The government in its reply seems to suggest, I
10 believe they site to Simmons in one other case and suggesting
11 that incarceration does, in fact, deter conduct. I have to, I
12 have to, I have to side with what Judge Rakoff repeatedly says,
13 not just about the loss guidelines but also about this notion
14 of what general deterrence is. General deterrence although
15 it's recited as a factor in the sentencing guidelines, there's
16 absolutely no empirical evidence that it works.

17 More importantly, it assumes that somebody out there
18 in either Russia or Malaysia or whatever is actually paying
19 attention to a judge in the Southern District imposing a
20 sentence. And then on top of that, drawing from that the
21 lesson that they really ought not to commit the crime because
22 they will similarly be punished and thereby general deterrence
23 is achieved.

24 I focus on this because in terms of loss cases there
25 is not a judge -- I shouldn't say there is not a judge because

1 I don't know of every loss case -- but the recent loss cases
2 and I believe I've cited them for the Court, including the case
3 of Rajat Gupta, where he got a sentence of 24 months;
4 Mr. Rajaratnam, where he got a sentence far below the guideline
5 range by Judge Holwell; the sentence of Mr. Adelson and
6 Mr. Parish; one by Judge Block; and again by Judge Rakoff; the
7 sentence imposed on Mr. Bristol by Judge Batts; the sentence
8 imposed by Judge Koeltl on Mr. Nadel. All of these show a
9 pattern and surely the pattern suggests something. And the
10 pattern suggests that the unusually high guidelines are not
11 empirically sound and therefore the Court should not simply
12 adopt those guidelines in the way it would other guidelines
13 ranges.

14 The personal characteristics about my client all bear
15 in his favor. They're, certainly, sympathetic ones. The money
16 does not seem to have flowed to him. The government has no
17 evidence that he personally profited from his money. His son
18 remains in the wind. His son has never come forward to help
19 out the father. The government doubts whether my client's
20 story about the familial break-up is true but the government
21 has not a scintilla of evidence to take issue with that story
22 other than to say that he sounded like a knowledgeable guy when
23 he was talking on the tapes and they do cite to the tapes. And
24 even though they've withdrawn the attachments, the tapes are
25 very much cited by government's submission and that's OK. They

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1 can cite them.

2 But I don't think the government is going to stand up
3 and say that those tapes are not replete with phrases such as,
4 "I don't know". "Ask Curel". "I don't know". "Curel sent
5 me". Curel is the one who finds, not just the confidential
6 cooperator in the end but also the precursor to the cooperating
7 witness. Curel is actually physically in Cypress when the
8 meetings take place. There is no indication on any of these
9 conversations that Curel is not just a major participant in
10 this but Curel is the guy to whom the phrase "Curel knows" or
11 "Curel told me" or "Curel should be consulted by".

12 And I don't want to be perceived as saying you know my
13 client had nothing to do with anything. If he had nothing to
14 do with anything there would not have been a guilty plea. He's
15 pled guilty. The question really is just how far his reach
16 was?

17 Other than that, I don't have anything more to tell
18 the Court but I think all those facts put together do suggest
19 and call for a departure from the guidelines range and sentence
20 of 24 months. I remind the Court also that Mr. Zdrovenin will
21 be deported. I remind the Court that he spent a substantial
22 amount of time in Switzerland and he should be credited that
23 time from whatever sentence is imposed here because he wasn't
24 incarcerated there on any open matter either in the Southern
25 District or in any other country, so that time should be

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1 credited for him.

2 And finally there has to be some inference drawn from
3 the fact of his age and the fact that this is his first
4 offense. He is a true category one. He has zero criminal
5 history points. There is no other crime that he has committed
6 that was 20 years old for which he is not getting a criminal
7 history computation. This is man who really has a criminal
8 history.

9 All of those facts put together, your Honor, should
10 lead the Court to depart and vary from the guidelines range and
11 impose a sentence of 20 months. This would be in keeping with
12 the majority of the well respected jurists sitting in this
13 courthouse as well as the courthouse across the street.

14 Unless the Court has any more questions that's what I
15 have to say on behalf of my client.

16 THE COURT: All right. Mr. Zdorovenin, is there
17 anything you'd like to say before the Court imposes sentence?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: You can be seated. And pull the mic close
20 to you if you want.

21 (Pause)

22 THE DEFENDANT: Thank you.

23 Your Honor, I committed a crime. I understand my
24 responsibility in regards to this crime. I am not withstanding
25 the motivations that I had to commit this crime, I should say

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1 that they cannot justify this crime and make it not a crime. I
2 am very sorry, your Honor, today for what I have committed not
3 because of the crime, your Honor, only, but also because of the
4 fact that I let my son participate in this offense. I think
5 that this is my biggest crime. I feel complete pain because I
6 did what I did with my family and today I want to say how sorry
7 I am and that I am guilty of this crime that I committed. And
8 I want to say sorry to those people to whom I caused to suffer
9 losses and how sorry I am to those who were forced to
10 investigate this offense.

11 And of course I am to blame where my family is
12 concerned. All my life, your Honor, from my childhood I was
13 raised as a protector of the family. I live in a country and
14 continue to live in a country that went through significant
15 changes in the lives of people there and not all of those
16 changes were positive. But I tried in this time to protect my
17 family, to give my sons a good education. But as a result what
18 happened? I did everything contrary to my intentions and today
19 at home my close ones, my loved ones are forced to go through
20 this tragedy together with me. My old mother, my elderly
21 mother who is afraid that she will never see me again, my young
22 son who is five who is growing up without my support and my
23 love. You know, your Honor, how kids grow up so fast and how
24 important it is for the children to have both of their parents
25 when they're growing up, both parents who love them and take

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1 care of this them.

2 Your Honor, before you render a sentence and punish me
3 I want to ask you for leniency for my family because they're
4 forced to be punished together with me, unfortunately and they
5 will suffer more than I will. And this lesson that I have
6 learned here will be with me for the rest of my life and I am
7 completely sure I will never repeat such mistakes. Thank you,
8 your Honor, for your attention.

9 THE COURT: Mr. Pastore, is there anything you want to
10 say?

11 MR. PASTORE: Most of what the government wants to say
12 is contained in its sentencing submission. Your Honor,
13 primarily the defendant seeks a below guidelines sentence on
14 the basis of his motivation and a general attack on the idea of
15 deterrence. As the government noted in its sentencing
16 submission, whatever the motivation, the crime was a serious
17 one. And as even now the defendant candidly admits he played a
18 significant role in that crime. And for the reasons set forth
19 in our sentencing submissions we don't believe that a wholesale
20 attack on general deterrence is really important in any case.
21 But in particular, in this case the guidelines seem
22 commensurate with the defendant's activities. There are 51 to
23 63 months. And in most of the cases that the defendant cites
24 the guidelines were substantially higher and that's where we
25 see a lot of comments made by the judges about the guidelines

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1 ranges there.

2 Unless the Court has questions, the government is
3 prepared to rest on its submission.

4 THE COURT: All right. In deciding upon an
5 appropriate sentence, I have considered all of the factors
6 listed in Title 18 U.S.C. Section 3553(A), including the nature
7 and circumstances of the offenses to which the defendant
8 pleaded guilty, his personal history and characteristics, the
9 need for the sentence imposed to reflect the seriousness of the
10 offenses, to promote respect for the law, to provide just
11 punishment and to afford adequate deterrence.

12 I'll begin with the nature and circumstances of the
13 offenses.

14 The defendant pleaded guilty to a Section 371
15 conspiracy, the objects of which involved, among other things,
16 wire fraud.

17 He also pleaded guilty to one substance count of wire
18 fraud.

19 The defendant's co-conspirator was his son, Curel.
20 The defendant and his son played difficult roles in the fraud
21 conspiracy. His son's role included obtaining stolen credit
22 card numbers either by purchasing them or by using a computer
23 virus program surreptitiously installed on a victim's computer
24 to obtain the victim's credit card information and personal
25 financial information. The virus permitted Curel to obtain the

1 victim's credit card and also other financial information as
2 the victims typed that information into their computers.

3 This conduct took place in Russia but through the
4 Internet it was possible to victimize United States citizens
5 both in New York and elsewhere. The crimes took place between
6 March of 2004 and March 2005 but the defendant was not arrested
7 until 2011 when he traveled to Switzerland. The defendant's
8 son is a fugitive.

9 Curel charged purchases on the stolen credit card
10 numbers and hacked into victim's brokerage accounts and used
11 those accounts to manipulate stock prices for personal gain.
12 The fraudulent proceeds were laundered through websites that
13 were reported to be legitimate businesses. The activities of
14 the defendant and his son caused losses of between four hundred
15 thousand and \$1 million. While Curel was responsible for the
16 technical aspects of the fraud, the defendant was responsible
17 for providing bank accounts which could be used to accept the
18 fraudulent proceeds that Curel was generating.

19 The defendant discussed the details of his movements
20 of the fraud proceeds during his four hour meeting in Cypress
21 with someone who he thought was a potential co-conspirator but
22 who in reality was a government cooperator.

23 The defendant also permitted his son to use an
24 Ameritrade account held by the defendant's company, Rim
25 Investment Management Limited, to purchase and sell the

1 securities that Curel traded with the stolen accounts. While
2 it is clear that the defendant understood that his son was
3 using the Internet and the stolen credit card numbers to commit
4 fraud, there is no evidence that he understood all the
5 technical details. To the contrary, it is undisputed that the
6 technical aspects of the fraud scheme were handled by the son.
7 It seems clear that the fraudulent scheme was devised by the
8 son.

9 The government has also not rebutted the defendant's
10 claim that he did not benefit financially from the fraud. In
11 papers the defendant has argued that he should be treated less
12 severely because his criminal acts were not motivated by greed,
13 but rather out of a desire to repair his relationship with his
14 son which had been disturbed or frayed after the defendant
15 divorced Curel's mother.

16 In my view and as the defendant himself said this
17 afternoon, assuming that the motive was to repair the
18 relationship with the son, in my judgment it does not mitigate
19 the defendant's culpability. When his son first approached him
20 about participating in the fraud the defendant's response as he
21 himself indicated this afternoon should have been "no" quickly
22 followed by an attempt to persuade his son to stop using his
23 considerable technical abilities to commit fraud. The
24 defendant was not helping his son in any useful or productive
25 way by agreeing to assist him in handling the fraud proceeds

1 that the son was generating.

2 With respect to the defendant's personal history and
3 characteristics, he is 55 years old and was born and raised in
4 Russia. His father worked for the UN. His mother worked for a
5 railroad company. He was raised primarily by grandparents. He
6 has two children by an ex-wife, including Curel, his
7 co-conspirator in this case. As I noted, the defendant
8 divorced Curel's mother and remarried and has a four year old
9 son with his current wife. The family lives in Moscow.
10 Mr. Zdrovenin has a bachelor's, masters, PhD all in geology
11 from various institutions in Moscow. From 2005 until his
12 arrest he supported himself by lecturing on geology at various
13 universities in Russia and by assisting companies who wanted
14 him to review various geological reports. Prior to that,
15 during the period between 1998 and 2004 the defendant served as
16 a business director for his company Rim Investment Management
17 Limited in Russia. The defendant has no criminal record. His
18 involvement in this fraud scheme is difficult to reconcile with
19 the rest of his life which otherwise seems to be admirable.

20 The guidelines recommended a sentence of 51 to 63
21 months. The probation department has recommended a sentence of
22 51 months in prison. The government seeks a guidelines
23 sentence. The defense seeks a sentence of 24 months.

24 I conclude that a variance from the guideline is
25 called for. The defendant is now 55 years old. In my judgment

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1 he presents little to no risk of recidivism both because of his
2 age and the fact that he has no criminal record. I believe
3 that his involvement in the fraud scheme was aberrational and
4 was undoubtedly at the volition of his son.

5 I must also consider the fact that there is no
6 evidence that the defendant benefited in any way from the
7 fraud. And in most fraud cases defendants either benefit
8 financially from the fraud or would have benefited financially
9 in some fashion were the fraud successful. There is know
10 evidence that the defendant was involved any of the technical
11 aspects of the fraud or that he even understood how his son was
12 obtaining the stolen credit card information. If there were
13 evidence that the defendant misused technical knowledge or
14 abilities to commit the fraud here, I would likely not
15 entertain any variance from the guideline range. That is not
16 the case.

17 Having said all that, the defendant facilitated what
18 in my judgment was a serious fraud with international
19 ramifications. Without bank accounts to put the fraud proceeds
20 in, the son would not have been able to reap the benefit of his
21 fraudulent activities. And there is no question that the
22 defendant knew that his son was using the Internet to steel
23 from people thousands of miles away and that he chose to
24 facilitate that activity. And in the amounts in question are
25 not inconsequential.

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1 With all of these facts and circumstances in mind I'll
2 now describe the sentence I intend to impose and then I'll ask
3 the parties if there's anything further they wish to say.

4 With respect to imprisonment, I intend to impose a
5 sentence of 36 months imprisonment. I conclude that this
6 amount of imprisonment is sufficient to satisfy all the
7 purposes of sentencing as set forth in Section 3553(A).

8 I do not intend to impose is a period of supervised
9 release because it is my expectation the defendant will be
10 deported immediately after serving the sentence.

11 I do not intend to impose a fine because I find the
12 defendant lacks the ability to pay the fine. I am required to
13 impose a \$200 special assessment.

14 I have been handed a Consent Order of Forfeiture. It
15 is my intention to sign the order.

16 Is the government seeking restitution?

17 MR. PASTORE: Your Honor, we respectfully request the
18 90 day period within which to provide the Court details about
19 the victims, in particular, the identity and the amounts.

20 THE COURT: All right. Ms. Shroff, anything further
21 you wish to say?

22 MS. SHROFF: Your Honor, I have no objection to this.
23 I am in no position to but I have an objection to the 36 month
24 sentence. But I do wish to say Mr. Pastore's description of
25 wholesale attack on the loss guidelines makes it sound that the

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1 defense has somewhat done something awry or amiss. The loss
2 guidelines should be wholesaley attacked as have been noted by
3 Judge Rakoff and all the loss -- there is nothing about those
4 opinions that suggest that because the loss guidelines are on
5 the lower range they are somehow more reasonable or more
6 empirically sound. So just so that the law is accurately
7 portrayed, Judge Rakoff's opinions do not say that the loss
8 guidelines are reasonable or the guideline reasonable. I just
9 wanted that to be part of the record in this case.

10 THE COURT: Well, let me say that I considered what
11 the parties had to say about the various cases that have
12 discussed the fraud guidelines. And first of all, I don't
13 think Mr. Zdrovenin is similarly situated to any of the
14 defendants involved in those cases for a variety of reasons.
15 In some instances there's no question that the judge has been
16 motivated by the fact that the imposition of a guideline
17 sentence would result in what was effectively a life sentence
18 and undoubtedly that influenced what they had to say.

19 I have considered the arguments about the fraud
20 guidelines and taken them into account in my determination of
21 what's was an appropriate sentence balancing all the factors in
22 the case. And as I've said, I've concluded that the
23 appropriate sentence here is 36 months.

24 Mr. Zdrovenin, is there anything further you wish to
25 say?

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1 THE DEFENDANT: (In English) Thank you. No.

2 THE COURT: Mr. Pastore, anything else for government?

3 MR. PASTORE: I don't believe so. I may have missed
4 it, your Honor, but is your Honor imposing the mandatory
5 special assessments on the two counts?

6 THE COURT: Yes. I actually haven't imposed sentence
7 yet. I just told you what I intend to do.

8 MR. PASTORE: Certainly, your Honor. We have no
9 objection to the sentence as described.

10 THE COURT: Mr. Zdorovenin, for the reasons I just
11 stated, it is the judgment of this Court that you be sentenced
12 to 36 months imprisonment. You are ordered to pay a special
13 assessment in the amount of \$200. I am signing the consent
14 order of forfeiture which has been previously executed by the
15 parties and I will expect a proposed restitution order within
16 the next 90 days.

17 I believe there are open counts Mr. Pastore

18 MR. PASTORE: The government now moves to dismiss any
19 open counts in this indictment against this defendant.

20 THE COURT: That motion is granted.

21 Ms. Shroff, do you have any requests as to an
22 appropriate institution?

23 MS. SHROFF: May I just have a second with my client?

24 THE COURT: Yes.

25 (Pause)

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1 MS. SHROFF: Your Honor, my client doesn't have any
2 family in the United States. We do ask for a designation as
3 close to in the New York City area so that he has my offices
4 and his lawyer as a continued contact.

5 I would ask, your Honor, that if the Court could
6 possibly order that he receive -- and I know this might sound
7 odd -- but if he could receive whatever dental care -- he can
8 afford -- I know that my client would appreciate that. He is
9 almost constantly in pain and regardless of the many requests
10 we've made to the Bureau of Prisons we haven't had much success
11 with getting him help

12 THE COURT: What's the nature of his problem?

13 MS. SHROFF: I think he has a receding gum in his
14 lower teeth and he has lost like his front four teeth which
15 make it difficult --

16 THE COURT: All right.

17 MS. SHROFF: It seems to be a rather painful state
18 of --

19 THE COURT: All right.

20 MS. SHROFF: Thank you.

21 THE COURT: All right. I do recommend to the Bureau
22 of Prisons that the defendant serve his remaining period of
23 incarceration in New York City metropolitan area. And I ask
24 the Bureau of Prisons to address the dental problems that
25 counsel has referenced this afternoon.

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1 Mr. Zdorovenin, I am required to advise you of your
2 appeal rights. You can appeal your conviction if you believe
3 that your guilty plea was unlawful or involuntary or there was
4 some other fundamental defect in the proceedings that was not
5 waived by your guilty plea.

6 You also have a statutory right to appeal your
7 sentence under certain circumstances with few exceptions. And
8 a any notice of appeal must be filed within ten days of
9 judgment being entered into your case. The judgment will
10 likely be entered on Monday. Ms. Shroff will discuss you
11 whether or not you wish to file a notice of appeal. If you are
12 not able to pay the cost of an appeal you may apply for leave
13 to appeal in forma pauperis. If you request, the Clerk of the
14 Court will prepare and file a notice of appeal on our behalf.

15 anything further?

16 MR. PASTORE: Nothing further from the government.
17 Thank you.

18 (Adjourned)
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